

**SECTION 29 & SECTION 45 PRODUCTION TAX CREDIT (“PTC”) ISSUES  
FOR FINANCIERS, DEVELOPERS & OPERATORS OF NEW & EXISTING  
LANDFILL GAS FACILITIES  
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Abstract:

On October 31, 2002, the Clean Power Income Fund (“CPIF”) completed its investment in GRS, the largest independent landfill gas recovery power operator in the United States.

Clean Power is a publicly traded Canadian entity that provides stable, long-term cash flow to investors from the environmentally preferred generation of electricity. The Fund invests in power generating facilities throughout North America that use environmentally preferred energy sources such as water, wind, wood-waste, and landfill gas.

It is the first Income Fund to be certified under the Environmental Choice Program and to be authorized to carry the EcoLogo label. Clean Power’s asset portfolio currently consists of 42 plants representing over 347 MW’s of renewable power.

Clean Power currently has a market capitalization of approximately \$240 million and is listed on the Toronto Stock Exchange.

Gas Recovery Systems, LLC (GRS) operates 29 landfill gas utilization plants in several different states. GRS currently owns and operates 26 separate electrical generation facilities. The oldest plants have been in continuous operation for over 20 years. GRS’ prime movers include, naturally aspirated reciprocating engines, turbo-charged engines, a high-pressure steam boiler, simple cycle gas turbines and gas turbines with heat recovery steam generators.

Both Section 29 & Section 45 Production Tax Credits were established in order to foster development of renewable projects and to promote domestic energy security while lessening U.S. reliance on oil imports. Many GRS landfill gas utilization facilities were initially structured to monetize the Section 29 benefits. With the October 2004 expansion of Section 45 to now include LFG facilities, GRS is seeking to monetize the Section 45 tax benefits on existing sites. Current ‘double-dipping’ legislation forbids the utilization of both Section 29 and Section 45 on projects.

This paper will explore the structure, economics and difference of both the Section 29 and Section 45 PTC. Included in this discussion will be the applicability issues surrounding existing and new LFG sites. The paper will also explore whether or not a tax credit can be claimed if gas runs through the same blower used for older sections where gas qualified for Section 29 credits.

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Stephen Somerville is a member of the Probyn & Company team responsible for business development, acquisitions, generation of RFP proposals, and for monetizing ‘green’ attributes that emanate from Probyn & Company and Clean Power Income Fund facilities. Stephen was also recently part of a successful bid team for a 99 MW wind project Ontario.

Stephen has extensive experience in all aspects of the independent power industry, including market evaluation, acquisition negotiation, financial modeling, equipment procurement, performance evaluation, asset management, risk mitigation, contracting and government relations.

He received his Honours degree in economics from the University of Waterloo and his MBA degree from the University of Toronto. Stephen represents the Probyn Group on the Board of Directors of the Association of Power Producers of Ontario (formerly IPPSO). Stephen also served as a member on the Renewable Portfolio Standard implementation-working group. Stephen was also a member of the Canadian Electrical Association Taskforce – “Capital Cost Allowances (CCA) Rates For The Electric Power Industry” and a participant on the IPPSO Taskforce on Distributed Generation.